



PATENT
Attorney Docket No. 102.0001-03000
Customer No. 22882

3764
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Gary K. Michelson, M.D.

Serial No.: ~~08/480,684~~ 09/497,590

Filed: June 7, 1995

For: APPARATUS FOR INSERTING
SPINAL IMPLANTS

Group Art Unit: 3764

Examiner: M. Brown

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

CERTIFICATE OF MAILING VIA FIRST CLASS MAIL

Date of Deposit: September 29, 2003


I hereby certify that:

1. Status Inquiry
2. Information Disclosure Statement Under 37 C.F.R. § 1.97(c) with Form PTO-1449 and 2 documents
3. Check in the amount of \$180.00
4. Self-addressed return postcard receipt

are being deposited with the United States Postal Service to Addressee with sufficient postage as first class mail under 37 C.F.R. § 1.8 on the date indicated above and are addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date: September 29, 2003


Sandra L. Blackmon

1557 Lake O'Pines Street, NE
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Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(c)

Further to the Information Disclosure Statement filed January 24, 2002 and pursuant to 37 C.F.R. §§ 1.56 and 1.97(c), applicant brings to the attention of the Examiner the documents listed on the attached PTO 1449. This Information Disclosure Statement is being filed after the events recited in Section 1.97(b) but, to the undersigned's knowledge, before the mailing date of either a Final Action or a Notice of Allowance. Under the provisions of 37 C.F.R. § 1.97(c), this Information Disclosure Statement is accompanied by a fee of \$180.00 as specified by Section 1.17(p).

Copies of the listed documents are attached.

Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

Further to the Information Disclosure Statement of January 24, 2002, Applicant brings to the Examiner's attention that the previously identified litigation matter in the

United States District Court for the Western District of Tennessee, Western Division, Case No. 99-2656GV, referred to as Litigation 3 ("Lit. 3"), has settled with the defendants retracting their assertions of invalidity and inequitable conduct. Discovery documents relating to the aforementioned litigation is available upon request.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and applicant determines that the cited documents do not constitute "prior art" under United States law, applicant reserves the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: September 29, 2003

By: 

Thomas H. Martin
Registration No. 34,383

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